

REMARKS

Reconsideration of this application is respectfully requested. The claims have been amended for clarification (e.g., to remove exemplary language and correct grammatical errors). The independent claims have been amended to recite that a release-modifying substance or a rate modifying substance is added by dry mixing. Support for this amendment is found at, for example, Example 2 in the specification. Claims 35, 37, and 38 have been canceled without prejudice. Claims 1-34, 36, 39-57, 59, 64-67, 69, and 70 are pending and at issue.

The specification has been objected to for including trademarks in lowercase, and not reciting the generic names for them. The specification has been amended to recite the trademarks in uppercase as requested by the Examiner. These trademarks are well known, and are not recited in the claims; accordingly, applicants respectfully submit that the specification does not need to be amended to include the generic names for the various trademarks.

Claim Objections

Claims 24, 43 and 46 have been objected to because of typographical errors. These errors have been corrected.

Claim 37 has been objected to for being a substantial duplicate of claim 35. Claims 35 and 37 have been canceled. Accordingly, this objection is moot.

Indefiniteness Rejections

Claims 1-3, 5-8, 11-14, 16-19, 22-24, 26-27, 36, 43, 45, 47-48, 53 and 67 have been rejected as indefinite for using either “including” or the phrase “such as, e.g.”.

These terms have been deleted from the claims.

Claims 1-3, 5-8, 11-14, 16-19, 22-25 and 47 have been rejected as indefinite due to the phrase “at least about.” Claims 26-28, 46 and 48 have been rejected due to the phrase “at most about.”

The term “about” has been deleted from the phrases “at least about” and “at most about.”

Claims 35 and 37 have been rejected as indefinite because the term “step iii)” lacks antecedent basis. These claims have been canceled without prejudice. Accordingly, this rejection is moot.

Claim 25 has been rejected as indefinite due to the term “plain tablet.” While applicants respectfully disagree, in order to expedite prosecution, the term “plain” has been deleted from the claim.

Claims 55, 57 and 69 have been rejected for improper Markush form and the phrase “and the like.” While applicants respectfully disagree, in order to expedite prosecution, these claims have been amended to recite the traditional Markush language “selected from the group consisting of” and to delete the phrase “and the like.”

Anticipation and Obviousness Rejection over WO 03/004001 (“WO ‘001”)

Claims 1-34, 36, 38-57, 59, 64-67, 69 and 70 have been rejected as anticipated, or in the alternative, as obvious over WO 03/004001 (“WO ‘001”).

Claims 1, 2, and 59 have been amended to incorporate the limitation of claim 35, and to recite that a release-modifying substance is added by dry mixing. Claim 59 recites a step of adding a rate modifying substance by dry mixing. WO ‘001 does not disclose or suggest adding a release-

modifying substance by dry mixing as recited in the claims. Accordingly, WO '001 does not anticipate or render obvious the presently claimed invention.

Obviousness Rejection over WO '001 in view of U.S. Patent No. 5,026,559 (Eichel)

Claims 1, 35 and 37 have been rejected as obvious over WO '001 in view of Eichel.

Neither WO '001 nor Eichel disclose or suggest that a release-modifying substance or a rate modifying substance is added by dry mixing, as recited in the pending claims. Neither reference discloses such a dry mixing process.

Double Patenting Rejection Over U.S. Patent No. 7,217,431

Claims 1-3, 5-8, 11-14, 16-19, 22-24, 26-27, 36, 43, 45, 47-48, 53 and 67 are rejected for obviousness-type double patenting over claims 1-18, 33-36, 38-42 and 44 of U.S. Patent No. 7,217,431 ("the '431 Patent"). The '431 Patent is the U.S. counterpart to WO '001.

The presently claimed invention is non-obvious over the '431 Patent for the reasons set forth above with respect to the WO '001 reference.

Double Patenting Rejection Over U.S. Patent Application No. 11/711,965

Claims 1-3, 5-8, 11-14, 16-19, 22-24, 26-27, 36, 43, 45, 47-48, 53 and 67 are provisionally rejected for obviousness-type double patenting over claims 57-77, 90-95, 99-105 and 107-116 of U.S. Application No. 11/711,965 ("the '965 Application"). The '965 Application is a continuation of the '431 Patent.

Applicants respectfully request that this provisional rejection be held in abeyance until there is a finding of allowable subject matter in this application.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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